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12 *Attorneys for Defendants*
13 *C. R. Bard, Inc. and*
Bard Peripheral Vascular, Inc.

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 IN RE: Bard IVC Filters Products Liability
17 Litigation,

No. 2:15-MD-02641-DGC

**DEFENDANTS' RESPONSE IN
OPPOSITION TO PLAINTIFF'S
NOTICE re: BELLWETHER CASES**

(Assigned to the Honorable David G.
Campbell)

1 Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively
2 “Bard”) have no basis or evidence to challenge the representations made by Plaintiffs’
3 counsel regarding Ms. Mulkey’s medical situation, and hence, have no ground to object to
4 the plaintiffs’ claim that Ms. Mulkey cannot travel to Phoenix for a September trial. At
5 the same time, Bard believes it is premature to move Ms. Mulkey’s case to the “Fifth
6 Bellwether” place (as opposed to the “Fourth Bellwether” place), until her medical
7 condition is better understood and defined.

8 In the meantime, if Ms. Mulkey is moved from the next bellwether “slot”, Bard
9 submits that it becomes even more imperative that the Kruse case becomes the next
10 bellwether case. The two bellwether cases that have been tried thus far have been fracture
11 cases. However, as pointed out in previous submissions, a very small percentage of the
12 cases in this MDL involve a claim that the filter fractured (the most severe complication
13 alleged for the most part in this MDL). To properly assess the value of the vast majority
14 of cases in this MDL, the parties (and the Court) very much need to begin testing the sort
15 of cases that make up the vast majority of the cases in this MDL. Kruse is one of those
16 (as is Mulkey).

17 For those reasons, Bard believes that -- if Mulkey is postponed as a bellwether case
18 -- the trial of another non-fracture case (Kruse) should be the highest priority in this MDL.

19 In addition, in the event that Mulkey is delayed and another case is designated as
20 the next trial bellwether case, Bard respectfully requests the right to re-urge one motion in
21 limine. Specifically, Bard would like to re-urge the motion (no. 1; Doc. No. 9862)
22 regarding the admissibility of Recovery Filter migration death evidence, regardless
23 whether the case involves a G2 or Eclipse Filter.

24 RESPECTFULLY SUBMITTED this 22nd day of June, 2018.

25 s/ Richard B. North, Jr.
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**Attorneys for Defendants C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June, 2018, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

s/ Richard B. North, Jr.
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